

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHASE BANK USA, N.A.,

Plaintiff,

v.

HESS KENNEDY CHARTERED, LLC, :
LAURA L. HESS, EDWARD T. KENNEDY, :
LAURA HESS & ASSOCIATES, P.A., :
HESS KENNEDY HOLDINGS, LTD., :
HESS KENNEDY COMPANY CHARTERED :
BWI, THE CONSUMER LAW CENTER, LLC, :
THE CONSUMER LAW CENTER OF DELRAY :
BEACH, LLC, THE CONSUMER LAW :
CENTER OF BOCA RATON, INC., THE :
CAMPOS CHARTERED LAW FIRM, JEFF :
CAMPOS, P.A., JEFFREY S. CAMPOS, LEGAL :
DEBT CENTER, LLC, :
:

Civil Action No. 08-121-JJF

Defendants.

**MOTION OF PLAINTIFF CHASE BANK USA, N.A.
TO STRIKE DEFENDANTS' MAY 5 MEMORANDUM**

Plaintiff Chase Bank USA, N.A. ("Chase"), by and through its undersigned counsel, respectfully moves this Honorable Court to strike defendants' May 5, 2008 memorandum and award Chase the costs of this motion. In support of its Motion, Chase incorporates herein by reference the attached Memorandum of Law.

Dated: June 6, 2008

Respectfully submitted,



Beth Moskow-Schnoll (No. 2900)
BALLARD SPAHR ANDREWS
& INGERSOLL, LLP
919 N. Market Street, 12th Floor
Wilmington, DE 19801
Telephone: (302) 252-4465
Facsimile: (302) 252-4466
Email: moskowschnollb@ballardspahr.com

Attorneys for Plaintiff
Chase Bank USA, N.A.

OF COUNSEL:

David H. Pittinsky, Esquire
Alan S. Kaplinsky, Esquire
Mark J. Levin, Esquire
BALLARD SPAHR ANDREWS
& INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 665-8500

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CHASE BANK USA, N.A.,

Plaintiff,

v.

HESS KENNEDY CHARTERED, LLC,
LAURA L. HESS, EDWARD T. KENNEDY,
LAURA HESS & ASSOCIATES, P.A.,
HESS KENNEDY HOLDINGS, LTD.,
HESS KENNEDY COMPANY CHARTERED
BWI, THE CONSUMER LAW CENTER, LLC,
THE CONSUMER LAW CENTER OF DELRAY
BEACH, LLC, THE CONSUMER LAW
CENTER OF BOCA RATON, INC., THE
CAMPOS CHARTERED LAW FIRM, JEFF
CAMPOS, P.A., JEFFREY S. CAMPOS, LEGAL
DEBT CENTER, LLC,

Civil Action No. 08-121-JJF

Defendants.

**PLAINTIFF CHASE BANK USA, N.A.'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO STRIKE DEFENDANTS' MAY 5, 2008 MEMORANDUM**

Plaintiff Chase Bank USA, N.A. ("Chase"), by its undersigned counsel, respectfully submits this memorandum of law in support of its motion to strike the memorandum filed by certain of the defendants in this action on May 5, 2008.

By way of background, Chase filed its Complaint on February 29, 2008. On April 1, 2008, certain of the defendants (the "moving defendants") filed a motion to dismiss the Complaint for lack of personal jurisdiction or, in the alternative, to transfer to the Southern District of Florida. On April 18, 2008, Chase filed a response to the moving defendants' motion. On April 25, 2008, the moving defendants filed a reply to Chase's response.

In their April 25 reply, the moving defendants asserted that their "only office presently conducting business is the Coral Springs, Florida office," that "at the present time,

Defendants are only operating a single office in Coral Springs, Florida and in no other state" and that "now, at the present time, only the office in Coral Springs, Florida is still in operation."

On May 1, 2008, Chase filed a motion for leave to file a sur-reply (a copy of which was attached to the motion) on the ground that the moving defendants' April 25 reply contained sworn statements that were highly questionable, at best, and at worst perjurious. In particular, the sur-reply advised the Court that, on March 10, 2008, moving defendant Laura Hess had filed a "Response to Order to Show Cause" with the Supreme Court of Florida stating that she "is the sole Florida partner of a **multi-state** and **multi-national** law firm known as Hess Kennedy. The law firm maintains offices in New York, California, and the Cayman Islands and has a substantial presence in Coral Springs, Florida." (Emphasis added). Chase also submitted documentary evidence that, as of March 7, 2008, Hess Kennedy was using a letterhead that listed offices not only in Florida, but also in New York, Illinois, California, the Cayman Islands and Singapore.

Chase argued in its sur-reply that, unless there had been a drastic change in the status of Hess Kennedy between March 10, 2008 and April 25, 2008 (the date the moving defendants filed their reply), Ms. Hess' March 10 admission completely contradicted the repeated statements in the reply that the moving defendants' only office presently conducting business is the Coral Springs, Florida office.

On May 5, 2008, the moving defendants filed a memorandum opposing Chase's motion for leave to file a sur-reply. On page 2 of that memorandum, the moving defendants accused Chase of "misleading" the Court in its sur-reply and further stated:

"[I]t is incredibly disingenuous for the Plaintiff to take such a position because the Plaintiff fails to advise this court that the court filing it is relying upon as the basis for its request for a sur-reply (i.e. a filing in a Florida bar action) is not accurate in that the

Plaintiff fails to advise this Court that **said filing was thereafter clarified to indicate that in fact the Defendants do not have offices outside the State of Florida**. Hence, the actual record, if the Plaintiff had made the effort to make sure its representation was accurate, is in fact supportive of the Defendants' position.

For the Plaintiff to use an incomplete document and mislead the Court without then advising the Court that **the filing was actually clarified** and thereby the complete record actually supports the Defendants is tantamount to hiding evidence from this Court and greatly questions the integrity of the filings by the Plaintiff.”

(Emphasis added). Significantly, the moving defendants did not attach to their May 5 memorandum the alleged “clarifying” document referred to in the memorandum.

On May 21, 2008, counsel for Chase wrote counsel for the moving defendants and demanded that he immediately send Chase a copy of the clarifying document referred to in the May 5 memorandum. Chase stated that it had reviewed the Supreme Court of Florida docket in question and had found no such clarification to Hess' March 10, 2008 representations about Hess Kennedy's office locations. (May 21, 2008 letter, Exhibit A hereto).

On May 28, 2008, in a telephone discussion with Chase's counsel, counsel for the moving defendants acknowledged that he did not have any such clarification in hand and that, if he did not receive it promptly from his clients (the moving defendants), he would withdraw his May 5 memorandum.

On June 3, 2008, counsel for Chase sent a letter to counsel for the moving defendants which memorialized the May 28 telephone discussion and stated that, since counsel for the moving defendants still had not provided the alleged clarification, Chase was requesting that he immediately withdraw the May 5 memorandum or else it would be necessary for Chase to file a brief which would explain to the Court: (1) that at the time counsel for the moving defendants filed his memorandum alleging that Chase was misleading the Court, he did not have

the document upon which he relied for attacking Chase; and (2) he was unable to provide the document to Chase even after Chase requested it. (June 3, 2008 Chase letter, Exhibit B hereto).

On June 3, 2008, counsel for the moving defendants sent Chase a letter acknowledging that he still had not obtained any clarifying document from his clients and that Chase “may file what [it] wish[es], when [it] wish[es].” Although counsel for the moving defendants further acknowledged that “I did indicate that, if we made a false statement, we would see it was rectified,” he offered no assurance of when, if ever, that would take place. (June 3, 2008 moving defendants letter, Exhibit C hereto). On June 4, 2008, counsel for the moving defendants sent Chase an email stating, “Attached is the transcript of the testimony of Laura Hess on May 16, 2008, which is the document referred to in our recent pleading.” (June 4, 2008 email, Exhibit D hereto). Attached to the email was the transcript of the sworn statement of Laura Hess taken by the Florida Bar on May 16, 2007, not 2008 as stated in the email. While counsel for the moving defendants may claim that this is the purported clarification to which they referred in their May 5 memorandum, such a claim is, at best, disingenuous for several reasons. First, Ms. Hess’ statement that was allegedly later clarified was not filed until March 10, 2008. How can a transcript dated ten months earlier clarify a later filing? Second, Ms. Hess’ statement was filed in her own disciplinary proceedings occurring before the Florida Supreme Court. This earlier sworn statement, however, was taken in connection with the separate unlicensed practice of law investigation of Walter Chen. (May 16, 2007 transcript, Exhibit D hereto). Third, as of June 3, 2008, the dockets of Hess’ Florida Supreme Court matters still do not reflect any “clarification” by the moving defendants, and there is no indication the transcript of Hess’ statement from the Chen investigation has been filed in Hess’ own disciplinary actions. (Docket sheets, Exhibit E hereto).

Finally, and most importantly, this “clarification” does not support the moving defendants’ position. On the contrary, the transcript directly contradicts their assertion that the moving defendants maintain offices only in Florida. When asked where, in addition to Coral Springs, Florida, Hess Kennedy Chartered had offices, Ms. Hess replied, “We have one in London. We have one in Singapore.... We have one in the Cayman Islands. We have one in South Carolina, Chicago and the Florida ones I mentioned. . . California, New York and New Jersey.” (May 16, 2007 transcript, p. 21, Exhibit D hereto). Thus, once again, Ms. Hess swears that Hess Kennedy Chartered is a multi-state and multi-national law firm, just as Chase asserted in its filings which have been contested by the moving defendants.

Accordingly, Chase moves to strike the moving defendants’ May 5, 2008 memorandum. That memorandum accused Chase of misleading the Court because it did not disclose that the moving defendants had clarified the March 10, 2008 statement by Laura Hess to the Florida Supreme Court upon which Chase was relying. However, the moving defendants did not attach any such clarifying document to their May 5 memorandum, and the alleged “clarifying” document that they have now produced -- only after Chase’s repeated demands during the month that has elapsed since they filed their May 5 memorandum -- directly contradicts the assertions contained in their May 5 memorandum. Thus, there was and is no basis for the moving defendants to accuse Chase of misleading the Court. In fact, if anyone has misled this Court it is the moving defendants.

Under these circumstances, Chase respectfully submits that the moving defendants’ May 5 memorandum should be stricken and Chase should be awarded the costs of this motion. As stated in Mount Sinai Hospital v. Borg-Warner Corp., 527 F. Supp. 922, 926-27 (S.D.N.Y. 1981):

The Court notes the various references in defendant's brief in opposition to plaintiffs' motion. It contains an intemperate attack upon the integrity of plaintiffs' attorney based upon his failure to request interest or an instruction with respect thereto. The charge that plaintiffs' attorney was engaged in a "sneak" attack by deliberately waiting until after the entry of judgment, compounded by charging him with indulging in "dishonest practice" is not only unfair but utterly without justification. While Federal Rule of Civil Procedure 12(f) authorizes the court on its own motion to order stricken "any pleading" that contains "impertinent, or scandalous matter," the Court is of the view that it encompasses briefs, affidavits or any document submitted to the Court. In any event, the Court has inherent power to strike any scandalous matter or document submitted to it. The Court orders the defendant's brief stricken from the files.

See also Davis v. Norris, 34 Fed. Appx. 658, 663 (10th Cir. 2002) (court has inherent power to impose sanctions and assess payment of attorneys' fees to deter frivolous filings); Christensen v. Ward, 916 F.2d 1462, 1469 (10th Cir. 1990) (federal court has inherent power to impose sanctions including costs and attorneys' fees that are necessary to regulate the docket and promote judicial efficiency); Kitson v. Bank of Edwardsville, 240 F.R.D. 610, 611 (S.D. Ill. 2006) ("the Court has of course the inherent power to strike submissions to the Court other than pleadings") (citing cases); 28 U.S.C. § 1927 ("[a]ny attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct").

For all of the foregoing reasons, plaintiff Chase Bank USA, N.A. respectfully requests that this Court strike the moving defendants' May 5, 2008 memorandum in this action and award Chase the costs, including attorneys' fees, of this motion.

Respectfully submitted,

Dated: June 6, 2008



Beth Moskow-Schnoll (No. 2900)
BALLARD SPAHR ANDREWS
& INGERSOLL, LLP
919 N. Market Street, 12th Floor
Wilmington, DE 19801
Telephone: (302) 252-4465
Facsimile: (302) 252-4466
Email: moskowschnollb@ballardspahr.com

Attorneys for Plaintiff
Chase Bank USA, N.A.

OF COUNSEL:

David H. Pittinsky, Esquire
Alan S. Kaplinsky, Esquire
Mark J. Levin, Esquire
BALLARD SPAHR ANDREWS
& INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 665-8500

EXHIBIT A

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

919 NORTH MARKET STREET, 12TH FLOOR
WILMINGTON, DELAWARE 19801-3034
(302) 252-4465
FAX: (302) 252-4466
WWW.BALLARDSPAHR.COM

PHILADELPHIA, PA
BALTIMORE, MD
BETHESDA, MD
DENVER, CO
LAS VEGAS, NV
LOS ANGELES, CA
PHOENIX, AZ
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC

BETH MOSKOW-SCHNOLL
DIRECT DIAL: 302-252-4447
PERSONAL FAX: 302-355-0221
MOSKOWSCHNOLLB@BALLARDSPAHR.COM

May 21, 2008

By Hand Delivery

Robert K. Beste, Jr.
Cohen Seglias Pallas Greenhall & Furman P.C.
Nemours Building, Suite 1130
1007 North Orange Street
Wilmington, DE 19801

**Re: Chase Bank USA, N.A. v. Hess Kennedy Chartered, LLC, et al.
Civil Action No. 08-121-JJF**

Dear Mr. Beste:

In our Sur-Reply dated May 1, 2008, we stated that on March 10, 2008, Laura Hess had filed a "Response to Order to Show Cause" with the Supreme Court of Florida claiming that she "is the sole Florida partner of a multi-state and multi-national law firm known as Hess Kennedy." In your Memorandum in Opposition to the Plaintiff's Request to File a Sur-Reply dated May 5, 2008, you wrote that this statement was not accurate because "the Plaintiff fails to advise this Court that said filing was thereafter clarified to indicate that in fact the Defendants do not have offices outside the State of Florida." You went on to state that our alleged failure to mention this clarification which was a part of the public record constituted an attempt to mislead the court.

A copy of this alleged clarification was not attached to your filing, and a review of the docket in Hess' matter before the Supreme Court of Florida reveals no such filing. Therefore, we request that you immediately send us a copy of the document to which you referred in your Memorandum in Opposition to the Plaintiff's Request to File a Sur-Reply.

Very truly yours,



Beth Moskow-Schnoll

BMS/

EXHIBIT B

LAW OFFICES
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
819 NORTH MARKET STREET 12TH FLOOR
WILMINGTON, DELAWARE 19801-3034
302-252-4465
FAX: 302-252-4466
WWW.BALLARDSPAHR.COM

PHILADELPHIA, PA
BALTIMORE, MD
BETHESDA, MD
DENVER, CO
LAS VEGAS, NV
LOS ANGELES, CA
PHOENIX, AZ
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC

June 3, 2008

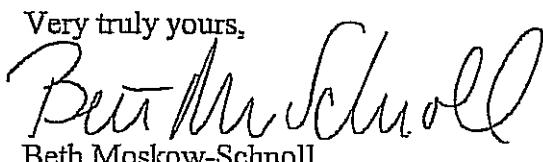
By Hand Delivery

Robert K. Beste, Jr.
Cohen Seglias Pallas Greenhall & Furman P.C.
Nemours Building, Suite 1130
1007 North Orange Street
Wilmington, DE 19801

Re: **Chase Bank USA, N.A. v. Hess Kennedy Chartered, LLC, et al.**
Civil Action No. 08-121-JJF

Dear Mr. Beste:

In a letter dated May 21, 2008, we requested that you immediately send us a copy of the alleged clarification to which you referred in your Memorandum in Opposition to the Plaintiff's Request to File a Sur-Reply dated May 5, 2008. In a telephone conversation on May 28, 2008, you acknowledged that you did not have any such clarification in hand, and that if you did not receive it promptly, you would withdraw your Memorandum in Opposition to the Plaintiff's Request to File a Sur-Reply. As several days have gone by since that conversation with no clarification having been forthcoming, we ask that you immediately withdraw your May 5, 2008 filing. Failure to file the withdrawal by close of business tomorrow, June 4, 2008, will necessitate our filing of a brief which will explain to the court that: (1) at the time you filed your memorandum alleging that we were misleading the court, you did not have the document upon which you relied for attacking us; and (2) that you were unable to provide the document to us even after we requested it.

Very truly yours,

Beth Moskow-Schnoll

BMS/

EXHIBIT C



COHEN SEGLIAS PALLAS GREENHALL & FURMAN PC

Robert K. Beste, Jr.
Attorney At Law

Nemours Building, Suite 1130
1007 Orange Street
Wilmington, DE 19801

T: 302.425.5089 | F: 302.425.5097

rbeste@cohenseglias.com
www.cohenseglias.com

June 3, 2008

**By Facsimile to 252-4466 and
First-Class Mail**

Beth Moskow-Schnoll, Esquire
Ballard Spahr Andrews & Ingersoll, LLP
919 N. Market Street, 12th Floor
Wilmington, DE 19801

**RE: Chase Bank, USA, N.A. v. Hess Kennedy Chartered, LLC, et al.
C. A. No. 08-121-JJF**

Dear Beth:

I am in receipt of your letter dated June 3, 2008, which I received earlier today.

When we spoke on May 28, 2008, I indicated to you that I would indeed seek some documentation to support the clarification you sought. I did not indicate I would withdraw our Memorandum in Opposition to Plaintiff's Request to File a Sur-Reply, I did indicate that, if we made a false statement, we would see it was rectified.

You, of course, may file what you wish, when you wish. I can tell you it has been rather difficult to work with everyone's schedules in the past week or so, and we are continuing our efforts to obtain the clarification you seek.

Very truly yours,

ROBERT K. BESTE, JR.

RKB/msj
22308-01; Doc. 20

EXHIBIT D

Moskow-Schnoll, Beth (Wilm)

From: Robert K. Beste [rbeste@cohenseglas.com]
Sent: Wednesday, June 04, 2008 2:43 PM
To: moscowschnoll@ballardspahr.com
Subject: Chase Bank v. Hess Kennedy

Attachments: Laura Hess Depo.pdf



Laura Hess
epo.pdf (1,021 KB).

Beth:

Attached is the transcript of the testimony of Laura Hess on May 16, 2008, which is the document referred to in our recent pleading.

Bob

Robert K. Beste, Jr.
Cohen Seglias Pallas Greenhall and Furman, P.C.
Suite 1130, Nemours Building
1007 Orange Street
Wilmington, Delaware 19801
Tel. 302-425-5089
Fax. 302-425-5097
E-Mail. Rbeste@cohenseglas.com

IRS Circular 230 Notice: To ensure compliance with certain regulations promulgated by the U.S. Internal Revenue Service, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code, or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein, unless expressly stated otherwise

CONFIDENTIALITY NOTICE

This E-Mail message and any documents accompanying this E-Mail transmission contain information from the law firm of Cohen Seglias Pallas Greenhall & Furman PC which is "privileged and confidential attorney-client communication and/or work product of counsel." If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution and/or the taking of or refraining from taking of any action in reliance on the contents of this E-Mail information is strictly prohibited and may result in legal action being instituted against you. Please reply to the sender advising of the error in transmission and delete the message and any accompanying documents from your system immediately. Thank

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR FILE NOS. 20071030(17C) and
20071034(17C)

In Re:

Unlicensed Practice of Law
Investigation of Walter Chen.

COPY

Fort Lauderdale, Florida
Wednesday, May 16, 2007
4:24 p.m. - 5:33 p.m.
Before Pilar A. Stenzel, R.P.R.,
Notary Public, State of Florida

SWORN STATEMENT OF THE WITNESS
LAURA LYNN HESS
TAKEN BY THE FLORIDA BAR

UPL
PUBLIC RECORD

ARROW REPORTING
(561) 547-4517

A P P E A R A N C E S:

Bar Counsel:

Janet Bradford Morgan, Esquire
Juan Carlos Arias, Esquire

Counsel to Ms. Hess:

Kevin P. Tynan, Esquire

UPL Committee Members:

Mr. Haas A. Hatic, Esquire, Chair
Mr. Mark R. Dissette, nonlawyer
Mr. Mark Fravel, nonlawyer
Mr. Gino Martone, nonlawyer

UPL
PUBLIC RECORD

ARROW REPORTING
(561) 547-4517

I N D E X

DIRECT RE-
CROSS DIRECT RE-
CROSS

WITNESS:

LAURA LYNN HESS

By Ms. Morgan 6

E X H I B I T S:

	Identified	Marked
Florida Bar's No. 1	50	71
Florida Bar's No. 2	55	71
Florida Bar's No. 3	57	71
Florida Bar's No. 4	60	71
Florida Bar's No. 5	62	71
Florida Bar's No. 6	65	71

UPL
PUBLIC RECORD

PROCEEDINGS

MS. MORGAN: Good afternoon. My name is Janet Morgan. I'm an attorney in the Unlicensed Practice of Law Department of The Florida Bar. This is the meeting of Unlicensed Practice of Law Circuit Committee 17C.

We're here today on an investigation of Walter Chen and several other individuals for unlicensed practice of law. And we have present here today by subpoena Laura Hess and her attorney, Kevin Tynan.

Ms. Hess, I'm going to have you state your full name and let the court reporter swear you in.

MS. HESS: I'm Laura Lynn Hess.
THEREUPON.

LAURA LYNN HESS,
called as a witness and being by the Reporter
first duly sworn, testified as follows:

THE WITNESS: I do.

23 MS. MORGAN: I'm going to let the
24 committee members go around the table and
25 introduce themselves. We also have at the

1 end of the table bar counsel, Juan Carlos
2 Arias, from the lawyer regulation side of
3 things. He'll be sitting in for at least
4 part of the statement.

5 We'll start with Mark.

6 MR. FRAVEL: Mark Fravel, nonlawyer.

7 MR. DISSETTE: Mark Dissette,
8 nonlawyer.

9 MR. HATIC: Haas Hatic, chairman of the
10 committee.

11 MR. MARTONE: Gino Martone, nonlawyer.

12 MS. MORGAN: Mr. Tynan, would you like
13 to introduce yourself for the record?

14 MR. TYNAN: And Kevin Tynan on behalf
15 of the witness.

16 MS. MORGAN: Thank you.

17 Ms. Hess, this UPL committee has chosen
18 today to take your sworn testimony in an
19 unlicensed practice of law investigation as a
20 witness. The investigation is pursuant to
21 the rules regulating The Florida Bar.

22 The committee is not bound by the rules
23 of evidence. We may require you to testify
24 and produce evidence, unless you claim a
25 privilege or right duly applicable under

1 federal and state law.

2 You may have counsel present with you
3 at the statement. And you do have your
4 counsel present who's introduced himself on
5 the record.

If you refuse to testify pursuant to
the duly-issued subpoena without a valid
privilege or right, you may be found in
contempt of court. You've already stated
your full name for us.

DIRECT EXAMINATION

12 Q. (BY MS. MORGAN) Could you please give
13 me your date of birth

14 A. March 21st 1972

15 Q. And what is your address?

16. A. My address is 9447 Satinleaf, Parkland,
17. Florida 33076

18 Q. Thank you. As I mentioned briefly
19 before, The Florida Bar has received complaints
20 against individuals who are not members of The
21 Florida Bar resulting in an unlicensed practice
22 of law investigation. The complaints involved
23 Hess Kennedy and Company.

24 And in the course of investigating
25 this, we have learned that you are associated

1 with Hess Kennedy Company or Hess Kennedy and
2 Company. Therefore, the committee has
3 subpoenaed you here to answer questions as a
4 witness today.

5 A. Sure.

6 Q. Are you a resident of Florida?

7 THE WITNESS: Yes.

8 Q. And you live here full time?

9 A. Yes.

10 Q. Are you licensed to practice law in any
11 state other than Florida?

12 A. No.

13 Q. And as I know and the members of the
14 committee know, you are licensed to practice in
15 Florida?

16 A. Correct.

17 Q. What year were you admitted to The Bar?

18 A. July 5th, 2000.

19 Q. All right. What is the name of your
20 law firm?

21 A. Hess Kennedy Company, Chartered.

22 Q. And is that the name that the law firm
23 operates under?

24 A. Yes.

25 Q. Okay. Was there an and between Kennedy

1 and company? Was it Hess Kennedy Company,
2 Chartered; is that correct?

3 A. Hess Kennedy, correct.

4 Q. Okay. And is this law firm registered
5 in Florida with the Division of Corporations
6 under that name?

7 A. Yes.

8 Q. What type of entity is it registered as
9 with the Division of Corporations?

10 A. Registered as -- we're an international
11 law firm.

12 Q. Okay. And is it a corporation or a
13 partnership or --

14 A. Yes, I believe -- and I'm not the one
15 that registered it. I believe it's registered as
16 a company.

17 Q. Okay. And when was Hess Kennedy
18 Company, Chartered established?

19 A. Well, initially it was established
20 between Mr. Kennedy and myself, I believe, back
21 in 2004. And it was -- Mr. Kennedy went ahead
22 and expanded it a little bit more to become an
23 international law firm. And it's just since
24 then, since the bankruptcy code's been amended,
25 continued to grow since 2005.

1 Q. Okay. Has this firm ever operated
2 under another name? Since 2004, has this been
3 the name of the firm?

4 A. No. Before, it was, I believe, without
5 the chartered.

6 Q. Have you ever been a partner in another
7 law firm?

8 A. No.

9 Q. Are you a partner in this law firm?

10 A. Yes.

11 Q. Have you ever been employed by another
12 law firm?

13 A. Yes.

14 Q. And what was that?

15 A. Ruden, McClosky, Smith, Schuster and
16 Russell.

17 Q. And when were you employed by them?

18 A. '99 through 2000.

19 Q. Okay.

20 A. Trip Scott. I was there for a few
21 months. And then I opened my own private
22 practice, Laura Hess, Attorney at Law, which I
23 currently operate under. And I also did some
24 work with Joyce Julian for, I would say,
25 approximately a year.

1 Q. When you say --

2 A. As an associate.

3 Q. As an associate with Joyce Julian.

4 A. Correct.

5 Q. Okay. When you say you operate Laura
6 Hess, Attorney at Law, is that also operating
7 presently at the same time as Hess Kennedy
8 Company, Chartered.

9 A. Correct. I'm operating -- I'm a
10 noncompensated director as far as my relationship
11 with Hess Kennedy. I operate Laura Hess,
12 Attorney at Law, which is more or less an
13 independent contractor relationship.

14 Q. Okay. Are they located at the same
15 address?

16 A. Yes.

17 Q. Okay. And what is address where Hess
18 Kennedy Company, Chartered is located?

19 A. 210 North University Drive, Suite 209,
20 Coral Springs, 33071.

21 Q. Okay. You know, what I think I'd like
22 to do is -- just so that I understand -- that
23 actually clears up a couple of things, what you
24 just said.

25 But these are just printouts from the

11
1 Secretary of State's Office. I have not marked
2 these as exhibits, because they are printouts
3 from the Secretary of State's Office. But just
4 to help me go through these -- I've got extra
5 copies here.

6 This one is for Hess Kennedy Company,
7 Chartered. I have an extra copy there. Is this
8 the law firm that you're describing?

9 A. Yes.

10 Q. Is this the law firm that you're
11 presently operating?

12 A. Yes.

13 Q. Hess Kennedy Company, Chartered, at the
14 address you just gave us. And you're listed as
15 the only director, correct?

16 A. Uh-huh.

17 Q. All right. There's another entity -- I
18 hand you copies -- that's registered with the
19 Florida Department of State called, Laura Hess,
20 Inc. What is Laura Hess, Inc.?

21 A. Laura Hess, Attorney at Law operates
22 under Laura Hess, Inc..

23 Q. That is your law firm?

24 A. My private practice, correct.

25 Q. Okay. And this shows that

1 president/director, Laura Hess, and there's also
2 a vice president/director, Edward Cherry
3 correct?

4 A. Yes.

5 Q. Is Mr. Cherry an attorney?

6 A. Yes.

7 Q. Does he practice at your law firm?

8 A. Yes.

9 Q. Is he licensed in Florida?

10 A. New York.

11 Q. In New York?

12 Okay. This is a third one, again, the
13 printout from the Department of State. Florida
14 limited liability company, Hess Kennedy
15 Holdings, Limited. Manager, Laura Hess, Inc.
16 And there are some other managers listed there
17 on page two.

18 What is Hess Kennedy Holdings,
19 Limited?

20 A. This would be, I'm more or less in
21 charge of the Florida lawyers. All these
22 attorneys that are listed are Florida lawyers,
23 with the exception of the business manager,
24 Mr. Cherry. Mr. Campos, Mr. Clyman -- there
25 should be a -- well, let me back up.

1 Mr. Clyman is in Chicago. There's
2 another David that we have at our office, who is
3 a Florida lawyer, which I thought they added him
4 as a P.A. Is this a current printout?

5 Q. I printed it out today,

6 A. Oh, you did?

Hess Kennedy Holdings is really the
division that we operate under our payroll
company.

10 Q. Okay. When you say payroll company,
11 payroll for the law firm Hess Kennedy, Chartered?

12 A. Right. But that's really all I know
13 about it. I mean, I'm -- the business manager
14 would probably be better --

15 Q. Okay. The business manager is.
16 Mr. Cherry?

17 A. Correct.

18 Q. Okay. Now, this is one that's listed
19 as inactive. But it has had a similar name. I
20 just wanted to ask you about that one also. It's
21 Hess, slash, Kennedy, LLC. Do you recognize this
22 entity?

23 A. I recognize this. But I was not --
24 this is when I was practicing with Ms. Julian. I
25 know that Hess Kennedy was formed between

1 Mr. Kennedy and myself. Like I said, this was
2 back around 2004, 2005, before the amendment of
3 the code, which was about October '05.

I was still practicing under my private
Laura Hess, Inc., with criminal law issues,
family law issues. And Mr. Kennedy was
developing the international law firm.

8 Q. Okay. And Mr. Kennedy, is that the
9 manager, Edward Kennedy, with an address in
10 Georgetown, Grand Cayman?

11 A. Correct.

12 Q. And this is showing as inactive. To
13 your knowledge, is this entity now inactive?

14 A. Correct. To my knowledge, yes.

15. Q. Okay. And what is Edward Kennedy's
16. association with your present law firm, Hess
17. Kennedy Company, Chartered?

18 A. He is one of the partners.

19. Q. He's a partner?

20 A. Yes. And he is one of the partners
21 that developed the company with myself.

22 Q. Okay. And is Mr. Kennedy an attorney?

23 A. Yes.

24 Q. Is he licensed in Florida?

25 A. He's licensed in New York.

1 Q. In New York?

2 And where is Mr. Kennedy physically
3 present? Is he in Florida or New York?

4 A. Yes. He makes his way between our
5 office here in Florida and the New York office.
6 But he's here the majority of the time.

7 Q. Okay. And you already said Mr. Cherry,
8 is he in Florida full time, or is he -- does he
9 work out of other offices too?

10 A. He's in Florida full time.

11 Q. Okay. All right. If you know -- this
12 is, again, a printout from the Florida Department
13 of State, Division of Corporations. And the
14 fictitious name of a company, Debt Settlement of
15 America, this is from their fictitious name
16 registry. The owners of the fictitious name are
17 listed at the bottom as Hess, slash, Kennedy, LLC
18 and Consumer Credit Counseling of America, Inc.
19 It shows the status as canceled.

20 A. Yeah. I'm not sure what the -- I
21 didn't --

22 Q. Did you have any affiliation with Debt
23 Settlement of America?

24 A. I don't recognize the name, Debt
25 Settlement of America.

1 Q. Okay. Do you recognize this address in
2 Daytona? It's 1635 South Ridgewood Avenue, South
3 Daytona, Florida.

4 A. No, I don't.

5 This is inactive, right?

6 Q. Yeah. It showed the fictitious name
7 has been canceled.

8 A. That's good to know. Because I don't
9 know about it.

10 Q. Okay. All right. And also, if you
11 know, let me ask you about this one. Again, a
12 printout from the Department of State, Division
13 of Corporations, Florida profit corporation, Hess
14 Kennedy Company Orlando.

15 A. Yes.

16 Q. Are you familiar with this entity?

17 A. Yes. I was there last week. I go up
18 there probably once a week to help supervise.
19 We're actually looking for a full-time lawyer
20 right now in that office.

21 Q. What is the affiliation between this
22 Hess Kennedy Company Orlando and Hess Kennedy
23 Company, Chartered, here in Fort Lauderdale?

24 A. Hess Kennedy Company Orlando is an
25 independent company office from Hess Kennedy.

1 Company, Chartered. But, you know, we still
2 conduct the similar business. But they do solely
3 settlement.

4 Q. When you say settlement, do you mean
5 debt settlement work?

6 A. Correct.

7 Q. Is Hess Kennedy Company Orlando a law
8 firm?

9 A. Yes.

10 Q. The persons listed as officers and
11 directors are Michael Hutchinson and William
12 Rothchild. Do you know if they're attorneys?

13 A. I don't know.

14 Q. Okay. Do you have an ownership
15 interest from Hess Kennedy Company Orlando?

16 A. Yes.

17 Q. And can you describe that interest?

18 A. I -- we receive a -- I receive a
19 paycheck from them.

20 Q. And what do you do to receive the
21 paycheck from them? What work do you do that you
22 get a paycheck from Hess Kennedy Company Orlando?

23 A. Well, I drive three-and-a-half hours
24 each way and, you know, seven hours round trip
25 once, twice a week. And -- because it's a

1 Florida office. And my capacity and my
2 responsibilities are supervising Florida offices
3 and Florida attorneys.

4 Q. Okay. But if I -- do I understand
5 correctly that this is not an office of Hess
6 Kennedy Company, Chartered?

7 A. Right.

8 Q. This is a separate --

9 A. Correct.

10 Q. -- entity?

11 But you act as a managing attorney for
12 them?

13 A. Correct.

14 Q. Are there any other attorneys present
15 in that office?

16 A. Actually, we're in the process of
17 hiring another full-time lawyer up there so I can
18 stop making this trip.

19 Q. Okay. So that would be no, there's
20 nobody there right now; is that correct?

21 A. Besides myself coming up there.

22 Q. Okay. All right. We talked a little
23 bit later about organization. Maybe we can talk
24 a little bit more about the work between the two
25 entities.

1 Okay. Thank you. I just wanted to go
2 through those, because with all the similar
3 names, it's a little bit confusing.

4 Other than what you've just described,
5 do you presently own an interest in any other
6 business entity?

7 A. No.

8 Q. Or law firm?

9 A. No.

10 Q. Okay. Are your partner in any other
11 partnership?

12 A. No.

13 Q. Okay. All right. Who are the partners
14 in Hess Kennedy Company, Chartered? Can you name
15 the partners?

16 A. Myself, Mr. Kennedy. And Mr. Chen
17 was -- he's in the process of being -- his shares
18 are in the process of being bought out. We're in
19 the process of severing our relationship with
20 him.

21 Q. Okay. Were those the only other two?

22 A. That's it.

23 Q. Okay. And Mr. Chen, where was he
24 admitted to practice?

25 A. He's admitted in Singapore.

1 Q. And did he work in the Florida office?
2 A. No.

3 Q. Was he ever present in the Florida
4 office?

5 A. No.

6 Q. Okay. How did you become affiliated
7 with him?

8 A. Mr. Kennedy had met him at an asset
9 protection conference and had brought him in as
10 an international partner.

11 Q. Okay. How long was Mr. Chen a partner
12 with the law firm?

13 A. I would say since 2004, 5.

14 Q. Until now?

15 A. Right.

16 Q. Okay. Other than Kennedy and Chen,
17 have there been any other partners of Hess
18 Kennedy Company, Chartered who are no longer
19 there?

20 A. No.

21 Q. And I'm sorry if you already answered
22 this. But Mr. Kennedy is located where?

23 A. He's here.

24 Q. He's here?

25 A. But he travels back and forth to New

1 York.

2 Q. Okay. Where are the offices of Hess
3 Kennedy Company, Chartered, other than the one
4 you've already described in Coral Springs?

5 A. Okay. We have one in London. We have
6 one in Singapore, which we're obviously in the
7 business of making the proper adjustments. We
8 have one in the Cayman Islands. We have one in
9 South Carolina, Chicago and the Florida ones I
10 mentioned.

11 Q. Okay.

12 A. California, New York and New Jersey.

13 (Thereupon, Mr. Mark Dissette left the
14 room, then the following proceedings were
15 had:)

16 Q. (BY MS. MORGAN) Okay. So it was the
17 intent to set up Hess Kennedy Company, Chartered
18 as an international law firm?

19 A. Yes.

20 Q. Okay. Are there attorneys who are
21 employed by Hess Kennedy Company, Chartered?
22 Attorneys, associates -- attorneys that work for
23 the law firm?

24 A. Oh, yes.

25 Q. Okay. Are there attorneys in the

1 London office?

2 A. Yes.

3 Q. And I'll skip Singapore.

4 Are there attorneys in the Cayman
5 Island office?

6 A. Yes.

7 Q. South Carolina?

8 A. Yes.

9 Q. Chicago?

10 A. Yes.

11 Q. California?

12 A. Yes.

13 Q. New York and New Jersey?

14 A. Yes.

15 Q. Where in South Carolina is the office,
16 the city, do you know?

17 A. I don't know.

18 Q. How about California, do you know the
19 city?

20 A. I don't want to say -- I know it's a
21 little bit south of San Francisco. I'm supposed
22 to go out there actually next month. So I'll be
23 able to give you better --

24 Q. Have you ever worked out of any
25 location other than Florida?

1 A. No.

2 Q. Okay. The office -- let me ask you
3 this. The office in Florida, the Coral Springs
4 office, what is the phone number at that office?

5 A. We have 12 phone numbers.

6 Q. 12 phone numbers?

7 A. Yeah.

8 The main number?

9 Q. Yes.

10 A. You know, when it started off -- just
11 to give you an idea, it started off with one
12 phone line. So can you imagine the people that
13 were reaching out to -- it's growing
14 tremendously. 954-752-1950.

15 Q. That's the main number?

16 Okay. Is there an 800 number or 866
17 number that people can dial?

18 A. Yup.

19 Q. Do you know that?

20 A. Nope.

21 And there's 877, 866.

22 Q. Okay. Those are toll free?

23 A. Right. Toll free for the clients and
24 creditors that need to call us.

25 Q. Okay.

1 A. Actually, I do know one of them. I
2 just thought of it. 877, believe it's 556-debt.
3

4 Q. Okay.

5 A. And maybe 566-debt.

6 Q. Okay.

7 A. I do remember getting that number.

8 Q. Okay. Are there any other businesses
9 located in the office with Hess Kennedy Company,
10 Chartered? Any other businesses, other than the
11 law firm located at that address?

12 A. No. Now, there are separate attorneys.
13 So do you want to know the names of the
14 organizations that they operate?

15 Q. When you say separate attorneys, what
16 do you mean?

17 A. We have the 210 address, and we have
18 the 3200 address, which is right up the street.

19 Q. What is the 3200?

20 A. 3200 North University Drive, which we
21 had to expand. We were trying to take over the
22 second floor of the building, but -- you know, we
23 didn't expect it would grow so fast.

24 Q. Okay. So you have two offices then?
25 There's one at 210 North University and one at
3200 North University Drive?

1 A. Right. And there's -- Jeff Campos
2 operates his Florida law firm as well.

3 Q. Okay.

4 A. As well as a David Lipman, who's also
5 Florida counsel.

6 Q. L-I-T-T?

7 A. L-I-P-M-A-N.

8 Q. Okay. Lipman.

9 A. So those are the two that are in that
10 office.

11 Q. Okay. And I'm sorry, are they at 3200?

12 A. Yes. It's at Suite 210.

13 Q. Okay. Do they also work for Hess
14 Kennedy Company, Chartered?

15 A. Yes. But they also, like myself,
16 operate their independent -- which gives us the
17 freedom to do -- you know, when I came into this,
18 I was still passionate about doing criminal and
19 family. Whereas, one of the members there still
20 has connections doing real estate, can still
21 operate and conduct our business as well.

22 Q. Okay. Are you the managing partner of
23 Hess Kennedy Company, Chartered in the Coral
24 Springs office?

25 A. There's really no managing partner, per

1 se.

2 Q. Okay.

3 A. Basically -- kind of make the decisions
4 together, I guess you could say.

5 Q. Okay. Who makes the decisions
6 together; you Jeff Campos and is it David?

7 A. No. Because those attorneys -- now,
8 those attorneys are just shareholders, not
9 partners. So the attorneys that would make the
10 decisions would be Mr. Kennedy and myself.

11 Q. Okay. All right. How many employees
12 are at Hess Kennedy Company, Chartered at 210
13 North University?

14 A. Approximately, or --

15 Q. Yeah, just approximately.

16 A. Well, it was now -- maybe 15.

17 Q. Okay. And what about at the other
18 office, at 3200?

19 A. Maybe 30.

20 Q. 30? Okay. So it's a bigger office?

21 A. Well, it's -- you know, we're trying to
22 put everybody places. We hired probably about
23 15, 16 paralegals. So we're just trying to get
24 the client communication and all the phone calls
25 taken care of.

1 Q. Okay. Do you have someone who is your
2 office manager?

3 A. Yes.

4 Q. Who would that be?

5 A. At the --

6 Q. 210. Let's start with 210.

7 A. Okay. Well, we have in -- the business
8 development manager is Edward Cherry, Mr. Cherry.

9 You mean more on the employee level
10 or --

11 Q. Yes. Who runs sort of the day-to-day
12 operation of the business there?

13 A. Well, there's a Joseph Jacuzzi
14 (phonetic), who is more of, I would say, like a
15 floor manager type, who operates with the actual
16 employees.

17 Q. Okay.

18 A. But as far as the business relations
19 and business development, that's Mr. Cherry.

20 Q. Okay. So the 15 employees and 30
21 employees are -- you mentioned paralegals. Are
22 any of those attorneys?

23 A. No.

24 Q. And are they paid a salaried wage?

25 A. Yes.

1 MS. MORGAN: Okay, I'm going to sort
2 of go into another segment.
3

4 Does anybody have any questions about
5 what we've just been talking about?
6

7 MR. HATIC: I may have misunderstood
8 this. Is Mr. Kennedy's first name Edward or
9 George?
10

11 THE WITNESS: Edward.
12

13 MR. HATIC: Was there a George Kennedy
14 that you mentioned?
15

16 THE WITNESS: (Witness shakes head from
17 side to side.)
18

19 MR. HATIC: I guess I was wrong about
20 that.
21

22 Do you know the New York office
23 address?
24

25 THE WITNESS: I don't know it by heart,
unfortunately.
1

2 MR. HATIC: How about the Chicago
3 address?
4

5 THE WITNESS: No.
6

7 MR. HATIC: And you don't know the
8 address in South Carolina?
9

10 THE WITNESS: No.
11

12 MR. HATIC: Is there an attorney in the
13

1 Orlando office of Hess Kennedy?

2 THE WITNESS: I'm the attorney -- I'm
3 the attorney in the Orlando office.

4 MR. HATIC: How many employees are
5 there in Orlando?

6 THE WITNESS: I would say 30.

7 MR. HATIC: What's the principal
8 practice area of the Hess Kennedy, Chartered
9 law firm?

10 THE WITNESS: Well, we address the
11 primary federal -- three federal statutes,
12 which are the Fair Credit Billing Act, the
13 Fair Credit Reporting Act and the Fair Debt
14 Collection Practices Act. Federal statutes.

15 MR. HATIC: And you represent consumers
16 in those contexts?

17 THE WITNESS: Correct. And make sure
18 that -- you know, they're billing -- I don't
19 know in-depth you want me to get into it.
20 But those are the primary statutes we address
21 and make sure they're, you know, not being
22 taken advantage of by the creditors and the
23 banks.

24 MR. HATIC: Does the Hess Kennedy
25 Company, Chartered law firm's business come

1 from principally outside of the state of
2 Florida?

3 THE WITNESS: No. Our main business
4 source is called First Consumer Debt
5 Consolidation. And they -- if a party is
6 not qualified for debt consolidation or debt
7 management, they direct them to the law firm.

8 MR. HATIC: So that firm makes
9 referrals to you?

10 THE WITNESS: Well, they direct them to
11 us.

12 MR. HATIC: Do you pay a referral fee
13 to that company?

14 THE WITNESS: No. We, in turn, provide
15 them legal services for a nominal fee.

16 MR. HATIC: Who are the attorneys that
17 provide those legal services to this credit
18 counseling company?

19 THE WITNESS: That would be mainly
20 myself and the other Florida lawyers.

21 MR. HATIC: What's the total number of
22 lawyers that you have in your firm?

23 THE WITNESS: In our office, my office?

24 MR. HATIC: All of your offices.

25 THE WITNESS: A hundred and twenty -- I

1 think it was a hundred twenty-one. Oh, this
2 is also attorneys that we have, you know,
3 inclusive on retainer and jurisdictions that
4 we have not yet, obviously, opened offices
5 in.

6 MR. HATIC: And do you treat those
7 hundred and some twenty some attorneys as
8 independent contractors?

9 THE WITNESS: Yes.

10 MR. HATIC: Do you have happen to have
11 a business card with you today?

12 THE WITNESS: Do I?

13 MR. HATIC: Yes.

14 THE WITNESS: I think I do.

15 MR. HATIC: Because I was wondering if
16 your phone numbers are on the business card.

17 THE WITNESS: You know, I thought of
18 that. But I didn't know if she wanted me to
19 check.

20 MS. MORGAN: You can give me the card
21 at the end.

22 THE WITNESS: Okay.

23 MR. HATIC: Okay, Janet.

24 MS. MORGAN:

25 Q. (BY MS. MORGAN) Okay. Going back to

1 your response to the question you were just asked
2 about, the First Consumer Debt Consolidation,
3 where is that located?

4 A. In Delray Beach.

5 Q. Delray?

6 A. It's not for profit, 501(c)(3).

7 Q. Okay. And are you a director of that
8 corporation?

9 A. No.

10 Q. Do you know who is.

11 A. Joel Carlson and Kurt Eggert
12 (phonetic). But I'm not sure how it's listed on
13 Sunbiz or anything like that.

14 Q. Okay. And how does the relationship
15 work between your law firm and First Consumer?
16 How does a client get from First Consumer to get
17 advice from your law firm?

18 A. Well, I don't know if you're familiar
19 with the bankruptcy code at all. But the
20 bankruptcy code has been amended in 2005, which,
21 as you can imagine, is the nature of why our
22 business is expanding. People are required now,
23 I guess it's a hundred eighty days before filing
24 a petition in bankruptcy court to actually get
25 credit counseling. This is why our business has

1 all of a sudden just expanded since 2005.
2 If they don't qualify for debt
3 consolidation, they send them over to the law
4 firm in hopes that we can help them with either
5 settling their debt or -- I mean, you'd be amazed
6 at some of the things that are inaccurately
7 reported under the federal statutes that I just
8 mentioned. You know, I had a debt zeroed out
9 yesterday for \$14,000, because they incorrectly
10 reported it.

11 And they're just constantly, you know,
12 harassing the consumers. And, you know, these
13 people are basically at their wits' end, you
14 know. They don't have -- they're just getting in
15 deeper and deeper.

16 They don't understand the truth in
17 lending, they don't understand regulations, they
18 don't understand these statutes. And the
19 creditors are just propounding them. And they're
20 getting nowhere.

21 Q. How do customers get to First Consumer
22 Debt Consolidation? How do they find them?

23 A. That, I'm not sure of.

24 Q. Have they already filed for bankruptcy,
25 they're interested in filing for bankruptcy? Are

1 they operating as a -- I didn't catch the term in
2 the bankruptcy code. But you have to get some --

3 A. Credit counseling, right; you have to
4 get credit counseling.

5 Q. Is that what the First Consumer Debt
6 does?

7 A. Right.. And if they can't help them,
8 then we help them. It seems as if with the
9 muscle of attorneys behind, people are -- as well
10 as debtors -- or creditors can be polite. They
11 seem to be really negotiating with us in helping
12 to resolve some of these people's debt.

13 Q. Okay. So once an individual has gone
14 to see First Consumer Debt Consolidation -- and
15 you said perhaps they don't qualify for debt
16 consolidation. Why would they not qualify?

17 A. Well, debt consolidation is different.
18 People have to have a different -- it's a whole
19 bunch of numbers and standards. But they still
20 have to have the amount to consolidate all their
21 debt and still formulate one payment.

22 These people are -- you know,
23 unfortunately, they can barely afford to pay
24 their mortgage, their car payments. They're not
25 in any position to even consolidate their debts

1 and make a monthly payment.

2 Q. Okay. So if someone went to first
3 debt -- I didn't write very clearly.

4 A. First Consumer Debt Consolidation.

5 Q. First Consumer Debt Consolidation.

6 What would that company do for them, if they did
7 qualify?

8 A. Well, if they qualified, they would
9 consolidate their debt and, therefore, make
10 probably one payment or make the payments
11 lessened for them.

12 Q. So a customer would make payments to
13 this company; this company would hold the money
14 and then make payments out to the creditors; is
15 that right?

16 A. Right.

17 Q. Okay. And if they don't have enough
18 money to qualify to do that sort of consolidation
19 and they are, then, directed to your law firm,
20 what does your law firm do for somebody who, I
21 guess, comes -- I don't know if they come on the
22 telephone or through paperwork or in the door.

23 A. Well, initially we do what's called an
24 audit. An we go through all of their periodic
25 statements, trying to see if they're in

1 compliance with the statutes that I previously
2 mentioned and also truth in lending regulations.

3 A lot of times they're not accurately
4 reporting what their APR is. They're not
5 accurately reporting what their payments are.
6 Like I said, I got a debt erased yesterday,
7 zeroed out, \$14,000 based, on a billing error.

8 And, you know, these people are -- they
9 don't have the education that we have been
10 blessed with. And they basically get fearful.
11 And they -- you know, now they have lawyers
12 operating on their behalf to try and manage their
13 debt somehow and get them out of this.

14 Q. Who's the first point of contact at
15 your law firm for someone who's directed from
16 this other company?

17 A. Well, they receive a welcome letter and
18 a welcome package. And it has my name on it.
19 They can contact me. I have paralegals that are
20 available at a 1-800 number.

21 Q. Okay. Have they been told by First
22 Consumer Debt Consolidation that they're being
23 referred --

24 A. Yes.

25 Q. -- or that they're being directed to

1 the law firm?

2 A. Of course. We have separate retainer
3 agreements with them.

4 Q. Okay. So how do you first become aware
5 that someone has been referred to you or directed
6 to you? How does your law firm become aware that
7 First Consumer Debt Consolidation is sending
8 someone to your firm?

9 A. Well, they would send somebody over
10 that they think would qualify and be better
11 served through our law firm.

12 Q. Do you receive from them a list of
13 names, we're sending you these people?

14 A. We usually receive files, receive
15 files. But then there's a separate -- then, we
16 start our process with a separate retainer
17 agreement and separate package for them.

18 Q. Okay. So they would -- once they have
19 been sent to your office, they, then, enter into
20 a retainer agreement with Hess Kennedy Company,
21 Chartered?

22 A. Correct.

23 Q. Okay. And how is that retainer
24 agreement given to them? As I understand, a lot
25 of these people don't necessarily live in

1 Florida, correct.

2 A. Right.

3 Q. Okay. So how do -- a retainer
4 agreement is sent to them?

5 A. Right. Either -- because we like to
6 have a wet signature, obviously, and -- because I
7 mean, we've been taught for years to get a
8 retainer agreement, get a signature. So that's
9 very important to us.

10 Initially, we can send them, if they
11 want to look at it by electronic mail. But we
12 require a hard signature.

13 Q. Once a customer becomes a client, does
14 that end their relationship with First Consumer
15 Debt Consolidation?

16 A. Yeah. There's really no reason for
17 them to --

18 Q. Okay. So then they're a client of your
19 law firm?

20 A. Correct.

21 Q. So you you're not providing legal
22 services to First Consumer Debt Consolidation,
23 you're providing services to individuals who come
24 to you through that entity?

25 A. Right. And then like I said, I

1 return -- because we don't take any referral fees
2 from them. We, in turn, would provide them with,
3 you know, legal advice if they needed it, for a
4 nominal fee.

5 Q. To their corporation?

6 A. Correct.

7 Q. Okay. When someone has signed a
8 retainer agreement what happens next? Who talks
9 to them in your office?

10 A. Well, any one of the paralegals talks
11 to them. Like I said, there's between probably
12 16 and 20 paralegals.

13 I talk to numerous people. And, you
14 know, mostly people don't understand the program
15 and are -- just need a little bit more
16 understanding of how it works. I try to take all
17 those calls. But as you can imagine, I rely on
18 my paralegals a lot to help me with that.

19 Q. And is there sort of a standard
20 procedure for handling the cases that come in?
21 Are there standard letters that go out --

22 A. Yes.

23 Q. -- to creditors, that kind of thing?

24 A. Yes.

25 Q. Okay. And what is your goal for these

1 clients? What are you trying to accomplish?

2 A. Well, we're trying to give them, above
3 anything, just to -- you know, these people
4 are -- a lot of people are in a place where
5 they're coming out of broken marriages, or
6 they're just completely at the bottom. And a lot
7 of them have no hope.

8 You know, they're having these
9 creditors call them 24 hours a day, from the
10 moment they get up, to the time they go to sleep
11 and harass them with letters. And they feel like
12 they have no way out. And they're not
13 sophisticated enough to actually understand what
14 is going on.

15 So that's where we come in. And we
16 have them forward everything to us. So we take,
17 relieve them of all that, the calls. And we
18 relieve them of all the correspondence. It's all
19 directed to us now.

20 Just like representing you're client,
21 they no longer can contact our client. We're
22 their attorney.

23 Q. Okay. So you become the attorney,
24 you're the point of contact for any creditors,
25 and you advise the creditors of that?

1 A. Uh-huh.

2 Q. And then you -- I believe you're saying
3 that you review the files of the client to see if
4 all the debts are valid debts or if maybe there's
5 some mistakes in the reporting, that kind of
6 thing?

7 A. Uh-huh.

8 Q. Now, do you also work out a debt
9 settlement arrangement for them?

10 A. Correct.

11 Q. Is that something your law firm also
12 does?

13 A. Uh-huh.

14 Q. How does that work? If you're working
15 a debt settlement arrangement for a client with
16 the various creditors, what does your law firm
17 do?

18 A. Well, it's based upon -- obviously, it
19 depends upon how much debt they have. But there
20 is approximately -- there's a fee that we take.
21 You know, there's approximately 15 percent of the
22 debt that if you average it out, ends up being --
23 I mean, nothing: You know, hourly.

24 We're used to making 300, 400 an hour,
25 200 an hour. I mean, in hindsight, it's nothing.

1 But if you put a lot of them together, you know,
2 that's how you end up making some money. But
3 that's -- it's -- then, we take their monies in a
4 monthly payment basis.

5 Q. Okay. And then that money goes out to
6 creditors?

7 A. Well, the money goes into an escrow
8 account. And once they've built up sufficient
9 funds, and once we've received a settlement that
10 corresponds with what they have in their escrow
11 account, we released funds to the debt -- the
12 creditor.

13 Q. Okay. And the negotiations with the
14 creditors, that's something that your staff, your
15 paralegals do?

16 A. Uh-huh. A lot of it, I do.

17 Q. And you do?

18 Okay. And where is the money while
19 this negotiation is going on? When they're
20 making their payments and accumulating enough
21 money in order to get a settlement, where is that
22 money?

23 A. It's held in an escrow account.

24 Q. A law firm escrow account?

25 A. Right.

1 MR. HATIC: Escrow account or trust
2 account?

3 THE WITNESS: Escrow account.

4 Q. (BY MS. MORGAN) And you kind of just
5 answered this question. But how do you -- how
6 does your firm get paid; do you have a percentage
7 of the total debt of any individual client; is
8 that --

9 A. Right.

10 Q. -- what you said, 15 percent?

11 A. Well, it averages out to be more or
12 less than 15 percent of the debt.

13 Q. Okay. And that fee, when do you take
14 your fee, just out of -- is that after their --
15 they've reached a settlement or as the payments
16 come in?

17 A. As the payments are coming in.

18 Q. About what percentage of your clients
19 come through this First Consumer Debt
20 Consolidation?

21 A. All of them.

22 Q. All of them?

23 Okay. Is there any other debt
24 settlement, debt consolidation firm that directs
25 clients to your law firm?

1 A. No, not that I'm aware of.

2 Q. Is there any other -- I think kind of
3 the same question, asked slightly a different
4 way. But is there any other way that Mess
5 Kennedy Company gets debt settlement clients?

6 A. Yeah.

7 Q. Do you ever have people just walk in
8 the door?

9 A. Well, yeah. Just like when you're out
10 doing whatever you do daily, you know, picking up
11 criminal clients, family law clients, you talk
12 about your business.

13 Q. Okay. So you do have some clients that
14 come in?

15 A. Yeah.

16 Q. Okay. I noticed on your web site, you
17 also list some other services, bankruptcy, wealth
18 management, asset protection. Are those things
19 that the law firm also does?

20 A. Yes.

21 Q. Okay. What percentage of the practice
22 of the firm would you say is from the debt
23 settlement area?

24 A. Ninety percent.

25 Q. Okay.

1 A. Well, is that exclusive of the
2 independent, like Laura Hess, Inc.?

3 Q. Yes. Yes, independent of Laura Hess,
4 Inc.

5 Okay. Do some of these people ever end
6 up filing for bankruptcy, do you ever recommend
7 that they do that?

8 A. Some of them do. But it's very few,
9 very few and far between.

10 Q. Why is that? Because --

11 A. Because this program works. I mean, it
12 really does. We're really relieving people of
13 their debt. So it's working.

14 MS. MORGAN: Okay. I'm going to move
15 on to another segment regarding this,
16 specific letters.

17 Does anybody have any questions about
18 what we just talked about?

19 MR. HATIC: The fee that you earned and
20 you sweep from, I guess, the escrow account
21 when the settlement is effect -- is that
22 correct?

23 THE WITNESS: Can you rephrase that?

24 MR. HATIC: Yes. You said that you
25 take your clients' money, and you put it in

1 escrow account.

2 THE WITNESS: Correct.

3 MR. HATIC: And then at some point you
4 earn approximately 15 percent of this
5 settlement amount, correct?

6 THE WITNESS: Of the total debt.

7 MR. HATIC: Of the total debt?

8 And that your clients are making
9 monthly payments. So are you taking your
10 payment as a lump sum at the front end, or do
11 you take it along the way? Your firm's fee.

12 THE WITNESS: Well, it actually
13 depends. Because, you know, if somebody has
14 a really good payment history -- because
15 remember now, we're dealing with people that
16 a lot of them are destitute and not a lot of
17 monthly payments aren't going through. But
18 the people that do have a very good payment
19 history, sometimes we end up even fronting
20 the settlement debt.

21 MR. HATIC: So, then, when you take
22 what is the firm's fee, you put that into the
23 firm's operating account?

24 THE WITNESS: I know they're kept
25 separate. But I don't do any of the --

1 MR. HATIC: Well, who makes the
2 distribution to the directors and
3 shareholders?

4 THE WITNESS: The business manager.

5 MR. HATIC: And the shareholders are
6 the lawyers that you indicated?

7 THE WITNESS: Uh-huh.

8 MR. HATIC: Is Mr. Cherry a
9 shareholder?

10 THE WITNESS: Yes.

11 MR. HATIC: Is there a receptionist
12 that takes calls when --

13 THE WITNESS: Yeah, we have a
14 receptionist as well.

15 MR. HATIC: Does the receptionist
16 direct the calls to paralegals?

17 THE WITNESS: We have at our office --
18 there's two different systems. At our
19 office, we have a menu where if you're
20 attorney or judge, you can direct towards
21 one. If you're a creditor, you get directed
22 toward another way.

23 If you need to speak to a lawyer, it's
24 kinds of a system -- but we still have a
25 receptionist that gets the default calls. At

1 the other office, it's exclusively paralegals
2 answering the calls.

3 MR. HATIC: Okay, Janet.

4 Q. (BY MS. MORGAN) Have you ever seen the
5 contract that First Consumer Debt uses --

6 A. No.

7 Q. -- with their -- okay. I just wondered
8 if it mentioned legal services or talked about
9 legal services at the outset, I mean, people come
10 in there, do they understand that there's a
11 possibility that they may be sent on to a law
12 firm?

13 A. Yeah, everything is -- I mean,
14 everything is clear and spelled out for them.
15 Which is also why we interject that separate
16 retainer agreement, so they know, okay, now,
17 it's the point that your relationship has ended
18 with them, and your relationship is beginning
19 with us.

20 Q. Okay. Did you mention Adam Formain
21 (phonetic)? Do you know an Adam Formain? Does
22 he work for you?

23 A. He was in the business office. He's no
24 longer there.

25 Q. Was in the business office in Fort

1 Lauderdale -- or Coral Springs?
2

3 A. Yes.
4

5 Q. Okay. And when you say the business
6 office, of the law firm?
7

8 A. Corporate office. We call it the
9 corporate office.
10

11 Q. Okay. And when did Mr. Formain leave?
12 A. A few weeks ago.
13

14 Q. Okay. And was that an amicable
15 parting?
16

17 A. I'm not in charge of hiring and firing,
18 so --
19

20 Q. Okay. Did you --
21

22 A. I know he was someone who thought that
23 he was kind of -- he was one of those that was --
24 felt he was larger than life type of person. You
25 know what I mean?

Q. Who brought him into the company or law
firm?
20

A. I don't know. The only person I know
that they do the firing is the business office,
so --
23

Q. Okay. So that would have been
Mr. Cherry?
24

A. Right.
25

1 Q. Okay. I'm going to move on and talk.
2 about some of these individual letters that are
3 on letterhead of -- I'm going to let you tell me
4 if it's your law firm or not. And this first
5 one, I'm going to start marking these exhibits,
6 and we're going to talk about them a little bit.
7

8 Exhibit 1. There's an extra copy there
9 for your attorney. Would you please take a look
at that.

10 It's a letter, dated October 17th,
11 2006. And it's signed by a Walter Chen. Hess
12 Kennedy Company. Is this -- do you recognize the
13 letterhead of this stationary?

14 A. Yeah.

15 Q. Is this the letterhead from your law
16 firm?

17 A. Well, it's different than that now. I
18 think it's -- this is like old letterhead. I
19 know for a fact that it's old letterhead.

20 Q. Okay. It's written on the stationary
21 with the address of North University Drive, Fort
22 Lauderdale, which I believe is actually Coral
23 Springs.

24 A. Right.

25 Q. But you did say that Mr. Chen never

1 worked in that office, correct?

2 A. No. This was a -- like a form -- when
3 we initially -- let me back up a little bit. We
4 initially started developing the international
5 law firm. We retained counsel in D.C. for
6 opinions on letterhead and for the web site.

7 Her name's Lewis Rose, up at Drye,
8 Shannon, Collier. Anyway, this was part of a
9 form letter. We don't even -- this isn't -- we
10 don't even use -- this is not a letterhead we use
11 from our office.

12 This is like an old form letter that
13 went out after we received an opinion back from
14 D.C. counsel, we sent out a memo to all the
15 partners with -- this was like -- this was like a
16 form.

17 Q. Okay. I was going to ask you about the
18 content of the letter. Because it looks like --
19 well, why don't you tell me what kind of a form
20 letter this is. When would this type of letter
21 have been used?

22 A. This would be in the initial stages,
23 after, you know, we first -- kind of trying to
24 establish that we represent the clients, so they
25 cease and desist from contacting the client. And

1 that we're conducting the briefing under 11,
2 United States Code. And, you know, obviously
3 taking care, doing the audits with the file,
4 which I talked about briefly, with the -- seeing
5 if there's any billing errors or whether they're
6 in compliance with the federal statutes, this
7 would go out.

8 And I think it goes into that a little
9 bit more in the next paragraphs. Yeah. It goes
10 into cease and desisting. This would be one of
11 the initial letters that would go out to a
12 creditor.

13 Q. Okay. And Mr. Chen was a licensed
14 attorney in Singapore, but did these letters also
15 go out under the signature of nonlawyers, to your
16 knowledge?

17 A. I think -- I know they all -- now,
18 there's a policy of them all having to pass
19 through the lawyers in the office to be signed.
20 You know, it was never my understanding -- this
21 is -- I mean, this is a form. I don't even
22 understand why he's on this stationary.

23 Q. Okay.

24 A. You know, I received his response. So
25 it's not my first time seeing that this is --

1 was -- was done with the signature.

2 Q. Okay. I don't want to digress too much
3 here. But this just occurred to me. How is
4 it -- the cases that come into your office, the
5 clients that come in from the debt consolidation
6 company, do they all stay in the Florida office,
7 or are they farmed out to the different offices
8 in other states and --

9 A. Right.

10 Q. -- countries?

11 They are?

12 A. Yes, they are. And the different
13 attorneys in the different jurisdictions conduct
14 the audits that I previously talked about.

15 Q. So under what circumstances would
16 Mr. Chen in Singapore have been writing a
17 letter -- it doesn't show on here, but my
18 recollection is Mr. Lowery's office was in
19 Colorado. And I don't know where the client was.

20 What circumstances would Mr. Chen in
21 Singapore be writing a letter like this? How
22 would he have gotten --

23 A. Well, he never would have been
24 authorized with my address here, for -- let me
25 establish that first and foremost. Would he ever

1 be writing correspondence into the United States?
2 Yes. And that would be, you know, his nation --
3 he's a signatory nation to the general agreements
4 against tariffs and trades.

5 Now, if there's a state that's
6 operating that is not a friendly state to
7 state -- you know, they're trying to regulate
8 state law -- I don't know if you're familiar with
9 the general agreements against tariffs and
10 trades. But that treaty will trump state
11 regulations. And that will provide for federal
12 law to take over state law.

13 It's an international commerce clause
14 to prevent a barrier from having other people
15 benefit from -- it's like a free trade.

16 Q. Is it your opinion that that enables an
17 attorney from another country to practice law in
18 the United States?

19 A. No, it's not practicing law, no.

20 Q. Okay. So your opinion, then, is that
21 what he was doing by signing this letter would
22 not have been the practice of law, that's why he
23 would sign it?

24 A. No. He would be allowed to -- the
25 initial correspondence. But he would not be

1 able -- he would not be permitted from that point
2 on to establish any, like, systematic, continuous
3 relationship there. At that point, there would
4 be local counsel that would be -- like I said, we
5 had people we would reach out to in 48 states to
6 take it from there.

7 Q. Okay. I'm going to show you what I've
8 marked as Florida Bar Exhibit 2, also signed by
9 Mr. Chen.

10 MR. TYNAN: So we're going to make a
11 pile of the actual exhibits?

12 MS. MORGAN: Yes, thank you.

13 Q. (BY MS. MORGAN) And I ask you to take
14 a look at that letter. And Mr. Lowery's in
15 Colorado.

16 Its dated November 7th, 2006. And is
17 this also a letter that appears to have been
18 generated by Hess Kennedy Company, Chartered?

19 A. Once again, if I can digress.

20 Q. Uh-huh.

21 A. This was meant to be almost like a
22 template, okay. Now, any attorney who sends
23 from another jurisdiction, you know, to have the
24 Hess Kennedy Company on there, but he's -- was
25 never authorized to send that with our address on

1 the bottom. That is not -- that was operating as
2 a template or a form that was attached to the
3 response from our Washington counsel.

4 Q. Do you recognize the form of this
5 letter? Is this a letter that would have been
6 sent in another particular circumstance?

7 A. I don't recognize ma'am, Dear ma'am, I
8 don't recognize that salutation.

9 Denying the validity of the debt, I
10 recognize that. I recognize the U.S. Code,
11 subsection 1692(c).

12 Yeah, I mean, this is one of the -- a
13 form letter.

14 Q. That goes to?

15 A. That goes to the various attorneys.
16 But, then, they need to make the proper
17 adjustments, you know. I mean, you would think
18 that anybody who has a law degree would put that
19 together, put it on their own address and
20 correspondence.

21 It's getting me --

22 MS. MORGAN: Okay. Does anybody have
23 any questions about those two letters from
24 Mr. Chen?

25 MR. FRAVEL: Curious to know why they

1 severed ties with Mr. Chen.

2 THE WITNESS: We severed -- well, I'll
3 tell you, actually, this organization brought
4 that about. It brought it to my attention.

5 I had no idea, until I received the
6 response from Mr. Chen on the form
7 letterhead, that he was using the formatted
8 letterhead with our address. And to me, to
9 be a partner in an international law firm and
10 to actually receive an opinion from D.C.
11 counsel that clarifies the dos and don'ts of
12 corresponding -- and, you know, out of
13 jurisdiction. It's ignorance.

14 And I don't want to be partners with
15 someone who is ignorant, is the bottom line.

16 MS. MORGAN: Okay.

17 MR. FRAVEL: Thank you.

18 Q. (BY MS. MORGAN) Okay. I show you what
19 I'm marking as Exhibit 3, with an extra copy, and
20 ask you to take a look at that.

21 This is a letter that's signed by an
22 individual named Andrew Hersant, H-E-R-S-A-N-T,
23 on Hess Kennedy Company stationary, dated August
24 31st, 2006.

25 Do you know who Andrew Hersant is?

1 A. Yeah. He's -- he is an attorney in
2 Cayman and London.

3 Q. He's an attorney in Cayman and London?

4 A. Uh-huh.

5 Q. Okay. Is he a partner or an associate?

6 A. No. He's not even with us anymore.

7 Q. Okay. At the time that he wrote this
8 letter, was he with Hess Kennedy Company,
9 Chartered?

10 A. Uh-huh.

11 Q. Yes?

12 A. August, yes.

13 Q. Okay. And he was located in -- you
14 said there's an office in Cayman Islands?

15 A. Uh-huh.

16 Q. Is that where he was located?

17 A. Correct.

18 Q. Okay. And you said he's no longer with
19 the firm. When did he depart the firm?

20 A. He took a position with a bank, a
21 full-time position with a bank.

22 Q. About how long ago, if you remember.

23 A. No. I would say it was sometime last
24 year, the end of last year. I'm really not sure.
25 I don't really want to put a date out there.

1 Q. Okay. And how would Mr. Hersant, an
2 attorney located in Cayman for Hess Kennedy and
3 Company, have received a file for a client?

4 A. Same rationale as Mr. Chen. The files
5 are distributed amongst the attorneys, whereby,
6 they conduct the audits. If they find any
7 violations with the federal statutes, they, in
8 turn -- the norm is to send correspondence to us
9 an updated kind of audit of the file, what they
10 think is going on in the file.

11 But in the event -- once again, this
12 is -- he's admitted in the Cayman Islands, which
13 is also a signatory nation to the GAT. So that
14 may have been the instance in this case.

15 Q. Okay. But he is not and was not a
16 partner, is that correct?

17 A. No.

18 Q. Who else was located in the Cayman
19 office, how many people are there?

20 A. There's Mr. Miller. Mr. Miller is the
21 only other one I know of, just the two of them.

22 Q. Is Mr. Miller an attorney?

23 A. Yes.

24 Q. Is he the supervising attorney?

25 A. That, I don't know.

1 Q. Is he a partner?

2 A. That, I don't know. Oh, he's not a
3 partner in my firm, no.

4 Q. Yes, of your firm.

5 A. Oh, no.

6 Q. Okay. So there's not a partner located
7 in the Cayman Islands?

8 A. No.

9 Q. Who's responsible for supervising that
10 office?

11 A. That would be the partner -- or sorry,
12 let me not phrase -- use partner term. The
13 attorney who's in that office. I mean, the
14 only -- we don't supervise any of the foreign
15 jurisdictions.

16 Q. Okay. So if Mr. Hersant was the
17 attorney in that office, he would have been
18 responsible?

19 A. Right. He's responsible for
20 generating, you know, his -- he's responsible for
21 his office, yes.

22 Q. Okay. Let me show you one that's
23 marked as Exhibit 4, and ask you to take a look
24 at that. It's copied slightly crookedly.

25 But Hess Kennedy Company, September

1 1st, 2006, signed by a Michael Morgan. Again,
2 also, the 210 North University Drive.

3 A. This is obviously the same situation.
4 And I am -- you know, I just don't understand how
5 a lawyer doesn't get it. I mean, we sent out a
6 clear memorandum of law, accompanied from the
7 partner, Lewis Rose, from our Washington, D.C.
8 firm, explaining the dos and don'ts of
9 correspondence of letters, of what's right, of
10 what's wrong.

11 I mean, this is --

12 Q. Okay. Who is Michael Morgan, first of
13 all?

14 A. He's an attorney in New York.

15 Q. He's in New York?

16 Okay. And is he licensed in New York?

17 A. Yes.

18 Q. Okay. And so he works out of the New
19 York office?

20 A. He's not at Hess Kennedy anymore.

21 Q. He is no longer with Hess Kennedy?

22 Okay.

23 MR. FRAVEL: The reason?

24 THE WITNESS: He's actually started his
25 own company, which might be a competing

1 company.

2 Q. (BY MS. MORGAN) Okay. And this
3 particular letter, this is --

4 A. It's a form.

5 Q. It's a form letter that goes out to a
6 creditor?

7 A. Form letters, correct.

8 Q. Okay. Was Mr. Morgan a partner?

9 A. No.

10 Q. Okay. The last one I handed you was 4,
11 is that right?

12 A. Yes.

13 MR. TYNAN: Correct.

14 Q. (BY MS. MORGAN) Let me show you what
15 I've labeled as Bar Exhibit Number 5. It's a
16 one-page fax cover sheet.

17 MR. FRAVEL: With a toll free number on
18 it.

19 MS. MORGAN: Oh, thank you. I can ask
20 her if that's the number.

21 Q. (BY MS. MORGAN) This one has a printed
22 name but no signature. Anthony Francisco,
23 counselor. There's no indication of where
24 Mr. Francisco is. Do you know Mr. Francisco?

25 A. I actually did some -- I guess this

1 name was mentioned to my attorney. And I had
2 done some research on Mr. Francisco. He was a
3 debt counselor at First Consumer Debt
4 Consolidation.

5 Q. At First Consumer? Okay.

6 A. He was like -- he was an agent, if you
7 will. He was not -- a nonlawyer. He's not a
8 counselor, I guess.

9 Q. Okay. Why, if you know, would
10 Mr. Francisco be sending out a fax --

11 A. I have no idea.

12 Q. -- on Hess Kennedy Company letterhead?
13 Do they have copies of your stationary
14 at the debt consolidation company?

15 A. I don't recognize this actual fax cover
16 sheet. We put Hess Kennedy Company, but it's in
17 a different font. And we actually have the
18 chartered now.

19 So it doesn't even -- it's not -- I
20 mean, it's not even the same -- whereas, the
21 letters are our form. This is nothing -- this is
22 nothing that we use.

23 Q. Would there have been any authorization
24 for First Consumer Debt to use your law firm
25 letterhead?

1 A. No. Not by me.

2 Q. Have you ever been aware of them using
3 the law firm letterhead?

4 A. No. Because it's very -- we're very
5 clear, that when they leave their relationship
6 with First Consumer, now, they're entering their
7 relationship with Hess Kennedy.

8 Q. Okay. So he's at First Consumer.

9 When you were doing your research, did
10 you find out if he's still there?

11 A. I don't think he's still there.

12 Q. And what did you say the name of the
13 person is in charge at First Consumer Debt?

14 A. Joel Carlson.

15 Q. Is it a K or C?

16 A. C.

17 And Kurt Eggert is his partner.

18 Q. Okay. Do you know about how many
19 people they employ? Have you ever been there?

20 A. No, no. Actually, I have been to the
21 previous address, which was off of Lake Worth.
22 But they've since then opened an office in
23 Delray. This was -- the previous office in Lake
24 Worth, it was shut down -- it wasn't shut down.
25 Let me rephrase that. They moved locations.

1 Q. Do you know the street there in Delray?

2 A. No. I think it's Atlantic. But I
3 don't want to put that out if I'm not sure.

4 Q. Okay.

5 A. I know the previous address.

6 Q. I'm going to show you what I'm going to
7 label Bar's Exhibit Number 6, and ask you to take
8 a look at this. I don't know the date that this
9 was generated.

10 But as you can see at the top, it has
11 the Hess, slash, Kennedy attorneys. Appears to
12 have been sent from Debt Settlement of America.
13 Do you recognize this letterhead, this Hess,
14 slash, Kennedy attorneys? Is that anything your
15 law firm has ever used?

16 A. It looks familiar. But I don't
17 recognize the name using it, so --

18 Q. You don't recognize Debt Settlement of
19 America?

20 A. No. And I don't -- like I said, the
21 only one I'm aware of is First Consumer Debt
22 Consolidated. But that's the only one I'm aware
23 of. But I'm also not the -- I'm the attorney,
24 not the business manager. So I'm only giving you
25 information I know.

1 Q. Okay. And it's not very legible, but
2 at the bottom there's an address. And there's
3 one address in Washington, and there's an address
4 in Coral Springs. I believe it's 1 -- maybe 12
5 or 11600 North West 56th Drive. Do you recognize
6 that?

7 A. No. Never been at that address.

8 Q. So your law firm has never been located
9 at that address?

10 A. No.

11 Am I going to get copies of these?

12 MR. TYNAN: Yeah. She gave those to
13 me.

14 THE WITNESS: This is enlightening for
15 me as well, some of this.

16 Q. (BY MS. MORGAN) Okay. I really wanted
17 to go through those to sort of identify the
18 people and the types of letters.

19 Who sends out what kind of letters? I
20 mean, do the paralegals and the attorneys send
21 out the letters to the creditors or --

22 A. Every letter -- it is our policy that
23 every letter is signed by an attorney before it
24 leaves the office.

25 Q. Every letter?

1 A. Uh-huh.

2 Q. Okay.

3 A. It gets to be a lot, but -- when we sit
4 there and sign them, because we have to.

5 Q. Okay. Have you been notified or made
6 aware of any investigations by any other state
7 bars or state agencies or entities --

8 THE WITNESS: No.

9 Q. -- at this time?

10 Okay. Does anybody else have different
11 questions?

12 MR. HATIC: Do you have written
13 agreements with your independent contractor
14 lawyers that you hire?

15 THE WITNESS: Yes.

16 MR. HATIC: Do you have a partnership
17 agreement with Mr. Kennedy?

18 THE WITNESS: Yes.

19 MR. HATIC: And do you have shareholder
20 agreement?

21 THE WITNESS: Yes.

22 MR. HATIC: So I just -- I'm not clear,
23 and I apologize for this. So the Hess
24 Kennedy Company, a chartered law firm, you
25 and Mr. Kennedy are the directors?

1 THE WITNESS: Correct.

2 MR. HATIC: And there are additional
3 individuals who are shareholders of that
4 entity?

5 THE WITNESS: Correct, all attorneys.

6 MR. HATIC: How many of those?

7 THE WITNESS: I provided them to you.
8 I think there was like seven or eight.

9 MR. HATIC: And that includes
10 Mr. Cherry?

11 THE WITNESS: Right.

12 MR. HATIC: Okay.

13 MR. MARTONE: I have one question.
14 When a debtor calls the counseling company,
15 and it's determined that it needs to be
16 referred to an attorney, how does it get
17 assigned to the attorney?

18 THE WITNESS: You mean each individual
19 file?

20 MR. MARTONE: Yeah. I mean, some of
21 them -- I noticed one attorney is in the
22 Cayman Islands, another attorney is in New
23 York. How do you make a determination as
24 to --

25 THE WITNESS: The business manager, I

1 know, divides them up. And we're each
2 allocated a certain amount. Whether there's
3 any that are, like I said, mentioned
4 previously, any states that have adopted ABA
5 5.5, that aren't as friendly to our type of
6 work, whether those are divided up to the
7 signatory nations, that could be possible as
8 well.

9 MR. HATIC: Is Mr. Cherry the business
10 manager?

11 THE WITNESS: Yes.

12 MR. HATIC: So he directs all the work
13 for the firm?

14 THE WITNESS: Correct.

15 MR. HATIC: And he does that for
16 Florida?

17 THE WITNESS: Correct.

18 Q. (BY MS. MORGAN) But you said that he's
19 also an attorney, didn't you?

20 A. Uh-huh.

21 Q. Does he do any legal work as an
22 attorney?

23 A. No.

24 Q. He just works as a business manager?

25 A. Correct. He's a great business manager

1 too.

70

2 MR. FRAVEL: If I may ask, how many
3 customers do you have?

4 THE WITNESS: Well, we actually, I'm
5 proud to say, have over 5,000 now. We
6 started with myself Mr. Kennedy and a
7 receptionist. So it's grown a lot.

8 But obviously, with the volume, we also
9 need to, you know, get a hold of a lot of
10 things too. We're helping a lot of people.

11 Q. (BY MS. MORGAN) Do you ever do any --
12 other than doing the debt settlement work, if one
13 of the clients is sued by a creditor somewhere,
14 do you represent them in a lawsuit?

15 A. Well, Florida -- there's -- there's
16 actually a distinction. We try to make that --
17 that we are not litigation counsel. Because
18 obviously our corporate office is operated out of
19 Florida.

20 So what we do is if it gets to a point
21 where it gets litigious, they're sent to the
22 attorneys that we have in the different states.
23 Like I mentioned before, we have connections with
24 approximately all 48 states -- actually, we do.
25 So it's about hundred and twenty.

1 Q. Okay. So if somebody, a client, did
2 call and notify you that they had been served
3 with a lawsuit, then you would associate a
4 counsel in that jurisdiction?

5 A. Correct.

6 MS. MORGAN: Okay. Anybody have any
7 questions for Ms. Hess?

8 Okay. I think that covers -- I think
9 that covers what we need to know for this
10 committee. If I have any other questions,
11 obviously --

12 MR. TYNAN: Call. Glad to help where
13 we can.

14 MS. MORGAN: -- I can contact your
15 attorney. And I think that concludes.

16 (Witness excused.)

17 (Thereupon, The Florida Bar's Exhibit
18 Numbers 1 through 6 were marked for
19 identification.)

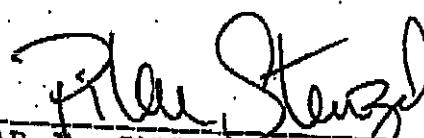
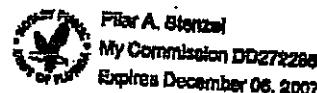
20 (Thereupon, the sworn statement was
21 concluded at 5:33 p.m.)

22

23

24

25

1 CERTIFICATE OF OATH
23 THE STATE OF FLORIDA,))
4 COUNTY OF PALM BEACH.))5 I, the undersigned authority, certify
6 that LAURA LYNN HESS personally appeared before me
7 and was duly sworn.8 WITNESS my hand and official seal this
9 30th day of May, 2007.10 
1112 PILAR A. STENZEL, R.P.R.,
13 and Notary Public, State of
14 Florida at Large.
15 My Commission No. CC 516581
16 Expires: December 6, 2007

1 C E R T I F I C A T E

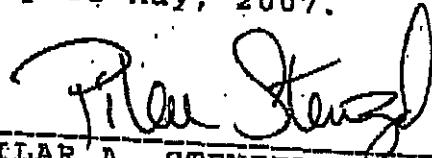
2 THE STATE OF FLORIDA,)
3 COUNTY OF PALM BEACH.)4
5 I, Pilar A. Stenzel, Registered
6 Professional Reporter, certify that the foregoing
7 statement was taken at the time and place
8 hereinabove set forth; that I was authorized to
9 and did stenographically report the foregoing
10 statement, and the transcript is a true and
11 complete record of my stenographic notes.12
13 DATED this 30th day of May, 2007.14
15 
16 PILAR A. STENZEL, R.P.R.17
18
19
20
21
22
23
24
25

EXHIBIT E

Florida Supreme Court Case Docket

Case Number: SC08-252 - Active

THE FLORIDA BAR vs. LAURA L. HESS

Lower Tribunal Case(s): 2008-90,111(OSC)

06/03/2008 04:24

Date Docketed	Description	Filed By	Notes
02/12/2008	PETITION-ORDER TO SHOW CAUSE	CO The Florida Bar FB BY: CO Kathy Jane Bible 654019	(W/EXHIBIT) FILED AS "PETITION FOR CONTEMPT AND ORDER TO SHOW CAUSE"
02/18/2008	No Fee Required		
02/22/2008	ORDER-SHOW CAUSE (FLA BAR CONTEMPT)		The Florida Bar having filed its Petition for Contempt and Order to Show Cause, this is to command you, Laura L. Hess, to show cause on or before March 10, 2008, why you should not be held in contempt of this Court and suspended from the practice of law for ninety-one days and assessed costs in the amount of \$1,250.00 for the reasons set forth in The Florida Bar's Petition. The Florida Bar may serve its reply on or before March 20, 2008.
02/28/2008	ACCEPTANCE OF SERVICE		RS Laura L. Hess 280940 BY: RS Kevin P. Tynan 710822 FOR OTSC DATED 02/22/08
03/10/2008	RESPONSE	RS Laura L. Hess 280940 BY: RS Kevin P. Tynan 710822	TO OTSC DATED 02/22/08, W/ATTACHMENTS
03/19/2008	REPLY TO RESPONSE	CO The Florida Bar FB BY: CO Kathy Jane Bible 654019	TO OTSC DATED 02/22/08, W/ATTACHMENT (O&1)
04/17/2008	ORDER-REFEREE APPOINTMENT (CONTEMPT PROCDG)		HON. KATHLEEN J. KROLL, C.J., 15TH JUDICIAL CIRCUIT
04/24/2008	REFEREE APPOINTED		DATED 04/21/08, HON. JACK H. COOK, 15TH JUDICIAL CIRCUIT
05/22/2008	REFEREES REPORT		W/MISC. PLEADINGS & E-MAIL

Florida Supreme Court Case Docket

Case Number: SC08-509 - Active

THE FLORIDA BAR vs. LAURA L. HESS

Lower Tribunal Case(s): 2007-50,983(17H), 2007-51,340(17H), 2007-51,482(17H), 2007-51,632(17H), 2007-51,797(17H), 2007-51,816(17H), 2007-51,866(17H), 2008-50,060(17H), 2008-50,264(17H), 2008-50,626(17H)

06/03/2008 04:26

Date Docketed	Description	Filed By	Notes
03/14/2008	COMPLAINT	CO The Florida Bar FB BY: CO Juan Carlos Arias 76414	W/EXHIBITS (O&I)
03/17/2008	No Fee Required		
03/24/2008	ORDER-REFEREE APPOINTMENT (DISCIPLINARY)		HON. KATHLEEN J. KROLL, C.J., 15TH JUDICIAL CIRCUIT
03/31/2008	REFEREE APPOINTED		DATED 03/27/08, HON. JACK H. COOK, 15TH JUDICIAL CIRCUIT
04/21/2008	LETTER	CO The Florida Bar FB BY: CO Juan Carlos Arias 76414	DATED 04/18/08, ADVISING OF ERROR IN LOWER TRIBUNAL NUMBER

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHASE BANK USA, N.A.,

Plaintiff,

v.

HESS KENNEDY CHARTERED, LLC, :
LAURA L. HESS, EDWARD T. KENNEDY, :
LAURA HESS & ASSOCIATES, P.A., :
HESS KENNEDY HOLDINGS, LTD., :
HESS KENNEDY COMPANY CHARTERED :
BWI, THE CONSUMER LAW CENTER, LLC, :
THE CONSUMER LAW CENTER OF DELRAY :
BEACH, LLC, THE CONSUMER LAW :
CENTER OF BOCA RATON, INC., THE :
CAMPOS CHARTERED LAW FIRM, JEFF :
CAMPOS, P.A., JEFFREY S. CAMPOS, LEGAL :
DEBT CENTER, LLC,

Civil Action No. 08-121-JJF

Defendants.

PROPOSED ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of

Plaintiff's Motion to Strike Defendants' May 5, 2008 Memorandum, it is hereby ORDERED that Plaintiff's Motion is GRANTED and Defendants' May 5, 2008 Memorandum is hereby stricken from the record. Furthermore, defendants are hereby ORDERED to pay or reimburse Plaintiff the costs of litigating this motion.

BY THE COURT

Honorable Joseph J. Farnan, Jr.
United States District Judge